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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

██████████  
c/o ██████████  
██████████  
██████████

DECISION

MPA/170841

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 15, 2015, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for speech therapy (ST), a hearing was held on March 9, 2016, at Madison, Wisconsin, with the petitioner appearing by telephone. A hearing set for February 3, 2016 was rescheduled at the petitioner's request.

The issue for determination is whether the requested ST is duplicative of ST received in school.

**PARTIES IN INTEREST:**

Petitioner:

██████████  
c/o ██████████  
██████████  
██████████

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Written submission of ██████████, ST Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 14-year-old resident of Milwaukee County who receives MA.
2. Petitioner is diagnosed with autism and mixed language disorder. On October 9, 2015, ██████████ requested prior authorization for once weekly ST for twelve weeks, PA no. ██████████. The DHCAA denied the request by a letter dated November 20, 2015.
3. The goals of the private ST were develop pragmatic social skills, with primary emphasis on speaking to and listening to others. Petitioner has trouble verbalizing when under stress.

4. Petitioner receives ST in school with goals similar to if not the same as the private ST goals. There is no evidence of coordination between the private therapist and the school therapist; instead it appears that the private therapist looked at petitioner's school plan and crafted a plan to attempt to avoid duplication.

### **DISCUSSION**

Speech and language therapy is an MA-covered service, subject to prior authorization after the first 35 treatment days. Wis. Admin. Code, §DHS 107.18(2). In determining whether to approve such a therapy request, the Bureau employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be medical necessary, appropriate, and an effective use of available services. Included in the definition of "medically necessary" at §DHS 101.03(96m) are the requirements that services not be duplicative of other services, and that services be cost effective when compared to alternative services accessible to the recipient. When speech therapy is requested for a school age child in addition to therapy provided by the school system, the request must substantiate the medical necessity of the additional therapy as well as the procedure for coordination of the therapies. Prior Authorization Guidelines, Physical, Occupational, and Speech Therapy, Topics 2781 and 2784. It is up to the provider to justify the provision of the service. §DHS 107.02(3)(d)6.

Prior hearing decisions have held consistently that where speech therapy is provided in school, it would not be cost effective for MA to cover private therapy. If the private therapy covers a situation that school therapy does not address, it has been found that the services are not duplicative.

I conclude that the denial was correct in this case. The goals of the school and private ST are basically the same. From the testimony of petitioner's mother it appears that the family believes that petitioner is not receiving sufficient ST in school with no one-to-one therapy. Of course, if school ST is insufficient the DHCAA would respond that the problem should be brought to the school's attention, not to seek ST elsewhere. Furthermore, it appears that there was no coordination between the private and school therapists. Crafting a plan to attempt to avoid duplication is far different than coordinating with the school therapist.

I acknowledge that petitioner's doctor made the referral to [REDACTED] and perhaps that avenue is the better avenue for petitioner. However, MA rules do not allow for coverage of therapy when a person already is receiving therapy through another provider, unless it can be shown that the other provider is unable to address the issues the second provider will address.

Petitioner's mother also noted that the school therapy is specific to academics as opposed to everyday life. The Department has long taken the position that academic versus community therapy is not a basis for granting private therapy as all therapists are trained the same and utilize similar techniques. See Ms. Trilling's response dated January 20, 2016, page 6.

### **CONCLUSIONS OF LAW**

The DHCAA correctly denied authorization for private ST because petitioner already receives ST in school.

**THEREFORE, it is**

**ORDERED**

That the petition for review is hereby dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 17th day of March, 2016

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 17, 2016.

Division of Health Care Access and Accountability